

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

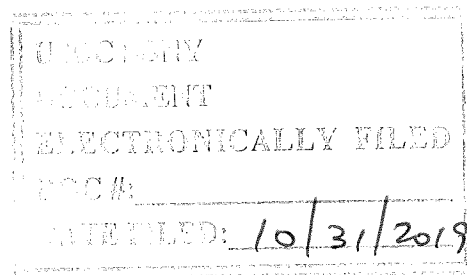
FRANCIS HENRY RUGGIERO,

Plaintiff,

-against-

C.O. LARRY WAY; SGT. R. BROWNE;
SUPERINTENDENT LEROY FIELDS; MEDICAL
STAFF THAT TREATED ME ON 1/24/19
APPROXIMATELY 10:30 P.M. FISHKILL
CORRECTIONAL FACILITY; DEPT. OF SECURITY,
FISHKILL CORRECTIONAL FACILITY,

Defendants.



19-CV-3631 (NSR)

OPINION & ORDER

NELSON S. ROMÁN, United States District Judge:

Plaintiff, currently incarcerated, brings this *pro se* action under 42 U.S.C. § 1983, alleging that Defendants violated his constitutional rights.

The Court is in receipt of *pro se* Plaintiff's letters, filed September 5, 2019, (ECF No. 31), October 7, 2019, (ECF No. 33), and October 23, 2019, (ECF No. 35), respectively. The letters request, *inter alia*, that the Court permit Plaintiff to amend his Amended Complaint, (ECF No. 16), and extend his time to oppose Defendants' motion to dismiss. Plaintiff also makes various requests that the Court compel discovery in this action. For the following reasons, Plaintiff's requests to amend and to compel discovery are denied, and his request for an extension of time to answer is granted.

I. Request to Amend

Plaintiff seeks permission to amend the Amended Complaint "in order to ready [his] claim so it is in compliance with the federal laws." (ECF No. 35.) As the Court has previously advised, a plaintiff that wishes to change his complaint must amend the entire complaint. The previous complaint will no longer be considered, and the Court will only consider the content of the

amended complaint. Plaintiffs may only amend their complaints one time without permission from the Court within twenty one days after the pleading is served or within twenty one days after service of a responsive pleading. Fed. R. Civ. P. Rule 15(a)(1). After that time, plaintiffs must receive consent from the opposing party or permission from the court to amend the complaint. Fed. R. Civ. P. Rule 15(a)(2).

Plaintiff has not received consent from Defendants, nor has he provided any detail as to the manner in which he wishes to modify his Amended Complaint. Under these circumstances, the Court discerns no basis for granting Plaintiff leave to amend. Accordingly, Plaintiff's request to amend his Amended Complaint is denied without prejudice to renew upon the presentation of facts warranting such relief.

II. Request to Compel Discovery

Parties are in the midst of briefing a motion to dismiss the Amended Complaint and Defendants have not yet filed their answers. Therefore, Plaintiff's discovery-related requests are denied without prejudice to renew at a later date.

III. Extension of Time

Plaintiff seeks to extend his time to oppose Defendants' motion to dismiss. Pursuant to the briefing schedule set by the Court, Plaintiff's opposition is due on October 30, 2019. (ECF No. 30.) Accordingly, the Court grants Plaintiff's request to the extent that the briefing schedule is modified as follows: Plaintiff's opposition is to be served by December 2, 2019, and reply papers are to be served by December 17, 2019. The parties are to send the Court two courtesy copies of all papers as they are served. On the reply date, the movants are to file all motion papers, including Plaintiff's opposition papers, on ECF.

The Clerk of the Court is respectfully directed to mail a copy of this Order to the Plaintiff at his address as listed on ECF and show proof of service on the docket.

Dated: October 31, 2019
White Plains, New York

SO ORDERED:



NELSON S. ROMÁN
United States District Judge